

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WESTINGHOUSE ELECTRIC & MANUFAC-)
TURING COMPANY)

Appearances:

For Appellant: Livingston & Livingston, San Francisco

For Respondent: A. A. Manship, Franchise Tax Commissioner

O P I N I O N

This is an appeal under Section 25 of the California Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929) from the action of the Franchise Tax Commissioner in overruling the protest of Westinghouse Electric & Manufacturing Company, a corporation, against a proposed assessment of an additional tax of \$932.80 based upon the return of said company for the year ended December 31, 1929.

The sole point involved in this appeal is the question of the constitutionality of the requirement of the act that income from all sources, including that derived from tax exempt federal, state and municipal bonds and securities, as well as royalties received from the use of United States patents, be used in the calculation of the tax. A similar appeal by this same corporation was ruled upon by our Board on August 4, 1930,

For the reasons set forth in our opinion in the case of Vortex Manufacturing Company (filed August 4, 1930), and in view of the decision of the United States Supreme Court in the case of Educational Film Corporation of America v. Ward, 51 Sup. Ct. Rep. 170, we do not feel warranted in hold the law unconstitutional. Moreover, the Supreme Court of California has recently ruled adversely on a similar attack on the constitutionality of the law in the case of The Pacific Company, Ltd. v. Johnson, 81 Cal. Dec. 519.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the acti of the Franchise Tax Commissioner in overruling the protest of Westinghouse Electric & Manufacturing Company, a corporation,

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against a proposed assessment of an additional tax of \$932.80 based upon its return for the year ended December 31, 1929, under Chapter 13, Statutes of 1929, be and the same is hereby sustained.

Done at Sacramento, California, this 15th day of May, 1931
by the State Board of Equalization.

Jno. C. Corbett, Chairman
H. G. Cattell, Member
R. E. Collins, Member
Fred E. Stewart, Member

ATTEST: Dixwell L. Pierce, Secretary